

REMARKS

Claim 9 has been amended to address the 112 rejection. Independent claims 1, 15, 20 and 34 have been amended to clarify the invention.

The indicated allowability of claims 9, 14, 19, 32 and 38 is noted, with thanks. However, it is believed that all of the pending claims are allowable over the art.

Claims 1-8, 10-13, 15-18, 20-31, 33-37 and 39 have been rejected as obvious from Wulf et al with one or more secondary references. Wulf was published after the filing date of the subject application. Thus, Wulf constitutes 102(e) art.

Accompanying this Amendment is a Declaration under 37 CFR 1.131 which establishes that the Applicants completed their claimed invention before the April 13, 2001 filing date of the Wulf et al application.¹ Applicant's 131 Declaration, which clearly shows completion of the claimed invention in the United States prior to the April 13, 2001 filing date of Wulf et al removes the Wulf et al published application as citable prior art under 35 USC §§ 102/103. Accordingly, the rejection of the claims as obvious from Wulf et al and one or more of the secondary references, cannot be maintained.

Having dealt with all the objections raised by the Examiner, it is believed the application now is in order for allowance. Early and favorable action are respectfully requested.

Form PTO-2038 for the Extension of Time fee is enclosed herewith.

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¹ The Declaration has been signed by two of the inventors. The third inventor is on vacation and will sign the Declaration on his return. The Examiner is respectfully requested to defer further Action until the fully executed Declaration is filed.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account Number 08-1391.

Respectfully submitted,



Norman P. Soloway
Attorney for Applicant
Reg. No. 24,315

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 29, 2003, at Tucson, Arizona.

By Kim Hord

NPS:sb

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OPIPE MOWES SOLOWAY

AUG 01 2003



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. Of: HARRIS et al.

Serial No.: 09/991,810

Filed: November 23, 2001

For: ELECTRONIC DEVICE FOR THE PREPARATION . . .

Group: 3713

Examiner: Cameron Saadat

DOCKET: BROOKSTONE 01.01

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450DECLARATION UNDER 37 CFR 1.131
OF PRIOR INVENTION

Dear Sir:

The undersigned, being the named inventors of the subject Application, declare and state the following:

(1) We conceived of the invention claimed in the above identified application prior to April 13, 2001, the filing date of the Wulf et al published U.S. Patent Application No. 2002/0176320 A1 cited in the Official Action mailed January 29, 2003 in the above matter.

(2) As proof thereof, we provide the following:

- (a) Exhibit A which is a copy of a written invention disclosure prepared prior to April 13, 2001; and
- (b) Exhibit B which is an e-mail also in existence prior to April 13, 2001, showing continued diligence in reduction to practice.

AYES SOLOWAY P.C.

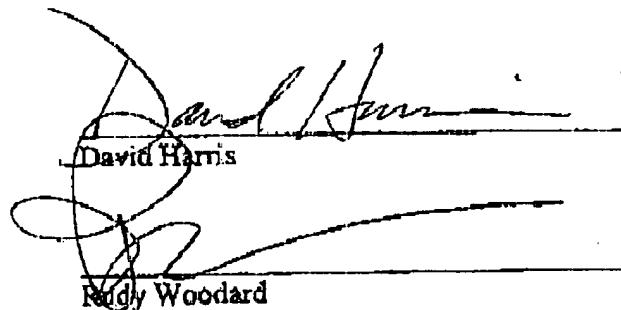
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Serial No. 09/991,810
Docket No. BROOKSTONE 01.01
Declaration under 37 CFR 1.131

(3) The foregoing and attachments clearly show we possessed the claimed invention prior to the April 13, 2001 filing date of the Wulf et al published application. Moreover, having conceived of the invention prior to April 13, 2001, we proceeded diligently to produce and market product and to file a patent application covering the invention. At no time between our conception of the invention and our filing of the subject application did we ever intend to abandon the invention.

As the named inventors, we hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Application or any patent issued thereon.

Date: 7/29/03



David Harris
Randy Woodard

Date: 7/29/03

Date: _____

Scott Rubenstein

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